

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

NATASHA NUNN-PAIGE and)
DEMETRIUS PAIGE,)
)
 Plaintiffs,)
)
 v.)
)
THE UNITED STATES OF AMERICA,)
JAMES WORTMAN, M.D., ALAN)
PEACEMAN, M.D., JUAN APARICIO,)
M.D., OLWATENIOLA BROWN, M.D.,)
NORTHWESTERN MEMORIAL)
HOSPITAL, NORTHWESTERN)
MEMORIAL FACULTY FOUNDATION,)
RIVERFOREST ADVANCED IMAGING)
CENTER d/b/a VHS ACQUISITION)
SUBSIDIARY NUMBER 4, INC., WEST)
SUBURBAN HOSPITAL MEDICAL)
CENTER d/b/a RESURRECTION)
UNIVERSITY, and THOMAS FINGLER,)
M.D.,)
)
 Defendants.)

No. 19-cv-02352
Judge Kendall
Formerly Case No. 2018 L 11716
Circuit Court of Cook County, Illinois

JOINT INITIAL STATUS REPORT

Plaintiffs Natasha Nunn-Paige and Demetrius Paige, by their attorney Bradley Z. Schulman, and the United States of America, by its attorney, John R. Lausch, Jr., United States Attorney for the Northern District of Illinois, submit the following joint initial status report pursuant to the Court's April 26, 2019 Order [14]:

- 1. The attorneys of record for each party including the attorney(s) expected to try the case.**

*For the Plaintiffs Natasha Nunn Paige
and Demetrius Paige:*

BRADLEY Z. SCHULMAN
Motherway & Napleton, LLP

*For the Defendant the United States of
America:*

SARAH F. TERMAN
Assistant United States Attorney

2. The basis for federal jurisdiction

The jurisdictional basis for this action is somewhat unique. This is a medical malpractice case brought by plaintiffs in state court against defendant Dr. James Wortman, and several “respondents-in-discovery,” including Dr. Yam Tong, a deemed employee of the Public Health Service. Under Illinois rules of civil procedure, plaintiffs may designate a person or an entity as a “respondent in discovery” when they believe the person or entity has information essential to the determination of who should be named as additional defendants in the state court action. A person or entity named as a respondent-in-discovery is required to respond to discovery in the same manner as a named defendant. Plaintiffs then have six months after naming a person or entity as a respondent-in-discovery to convert them to a defendant in the state court civil action.

In this case, plaintiffs named Dr. Yam Tong (a deemed employee of the Public Health Service) as a respondent-in-discovery. When Dr. Tong failed to respond to discovery requests, plaintiffs filed a Motion for Default Judgment against him in state court. At that point, although Dr. Tong was not a named defendant, the case became ripe for removal. *See Swett v. Schenk*, 792 F.2d 1447, 1451 (9th Cir. 1986) (third-party discovery disputes in state court may be removed to federal court when the federal employee or agency confronts any form of punishment or jeopardy for declining to comply with discovery demands); *see also Edwards v. United States Dept. of Justice*, 43 F.3d 312, 314 (7th Cir. 1994) (motion to compel compliance with a subpoena removed from state court pursuant to § 1442(a)). Removal to this Court automatically transferred the entire docket, including plaintiffs’ default action against Dr. Tong, from the state court forum.

3. The status of any settlement discussions and whether the parties request a settlement conference

Counsel for plaintiffs and counsel for the United States have conferred and agree to the following resolution. Plaintiffs request leave to withdraw their Motion for Default Judgment; and,

once withdrawn, plaintiffs will move the Court to remand this action back to the Circuit Court of Cook County. Counsel for the United States will not oppose the plaintiffs' motion to remand.

Respectfully submitted,

NATASHA NUNN PAIGE
AND DEMETRIUS PAIGE

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